

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:05-CR-42-1H

This matter is before the court on defendant's motion pursuant to 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based upon a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u). Defendant was previously convicted of two counts of distribution of a quantity of cocaine base (crack) in violation of 21 U.S.C. § 841(a)(1) ("counts one and two"), possession with intent to distribute more than 5 grams of cocaine base (crack) in violation of 21 U.S.C. § 841(a)(1) ("count three"), and using, carrying or possessing a firearm during and relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c) ("count four"). On February 14, 2006, defendant was sentenced as follows: on counts one and two, to a term 46 months; on count three, a term of 60 months, to run concurrently with counts one and two; and on count four, a term of 60 months to

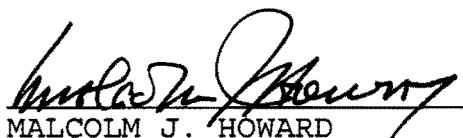
run consecutively to counts one, two and three. On February 10, 2009, the court granted defendant's motion for a reduction in sentence pursuant to 18 U.S.C. § 3852(c)(2) as to counts one and two and lowered the term of imprisonment on those counts from 46 months to 37 months. The court found that defendant was not eligible for any reduction of the sentence imposed on counts three and four and, thus, the term of imprisonment imposed on those counts remained 120 months.

The court now finds that defendant is eligible for a further reduction of the sentence imposed on counts one and two pursuant to 18 U.S.C. § 3582(c)(2). However, defendant is not eligible for any reduction in the sentences imposed on counts three or four.

Accordingly, the court GRANTS defendant's motion for a reduction in the sentence imposed on counts one and two. The court ORDERS that defendant's sentence as to counts one and two be reduced from 37 months to 24 months. There shall be no amendment to defendant's sentence as to counts three or four, and defendant shall remain in the custody of the United States Bureau of Prisons to be imprisoned for a total term of 120 months. Except as provided herein, all provisions of the

judgment dated February 14, 2006, as amended on May 9, 2006,¹ and February 10, 2009, shall remain in effect.

This 21st day of November 2012.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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¹On May 9, 2006, the judgment was amended to correct a clerical error.